

July 19, 2023

Via Electronic Mail (pubcom@finra.org)

Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street, NW
Washington, DC 20006-1506

Re: FINRA's request for comments on a Proposal to Require Members to Provide Rule 605 Order Execution Quality Reports to FINRA for Centralized Publication,¹ Reg Notice 23-10

Dear Ms. Mitchell,

The Healthy Markets Association² appreciates the opportunity to comment on the Proposal to create a centralized, public database of Rule 605 order execution quality reports.³

Currently, Rule 605 data is very difficult to track down across different websites and is not readily aggregated and scrubbed for effective analyses. As a result, to the extent that would-be users of Rule 605 reports engage in any analysis, it is rarely done by them directly. It is instead outsourced to third parties who are essentially paid to aggregate already public information and make the reports useful. In other words, the lack of a centralized database makes Rule 605 reports less likely to be used, and if they are used, they are likely to come with unnecessary resource costs that put smaller, less-well-financed users at a disadvantage. Further, because they are used less, errors in the data are often left undetected.

HMA has advocated for modernizing Rule 605 for the organization's entire existence, including in response to the SEC's recent market structure proposal on Rule 605.⁴ More timely, reliable, and useful statistics about order execution information from trading

¹ *Order Execution Information for NMS Stocks*, FINRA, Reg. Notice 23-10, May 31, 2023, available at <https://www.finra.org/sites/default/files/2023-05/Regulatory-Notice-23-10.pdf> ("Proposal").

² The Healthy Markets Association is a not-for-profit member organization focused on improving the transparency, efficiency, and fairness of the capital markets. Healthy Markets promotes these goals through education and advocacy to reduce conflicts of interest, improve timely access to market information, modernize the regulation of trading venues and funding markets, and promote robust public markets. Its members include public pension funds, investment advisers, broker-dealers, exchanges, and data firms. To learn about HMA or our members, please see our website at <http://healthymarkets.org>.

³ 17 CFR § 242.605.

⁴ Letter from Tyler Gellasch, HMA, to Vanessa Countryman, SEC, Mar. 31, 2023, available at <https://www.sec.gov/comments/s7-31-22/s73122-20162822-332274.pdf>.



venues are essential to empowering investors and their brokers with the information they need to make sound order-routing decisions.

A centralized, public database of 605 reports from all market centers – including national securities exchanges – would highlight the differences in order execution quality and lead to more competition among market participants and lower execution costs for investors. The increase in transparency would also alleviate the current challenges regulators, academics, and others (including HMA) face when trying to aggregate and analyze best-execution statistics.

We applaud FINRA's initiative and its planning related to the SEC's efforts to improve Rule 605. Users of the data, including investors, brokers, regulators, academics, and even trade associations like HMA, would be much more able to access and use Rule 605 reports if they were downloadable from a "single, central location."⁵

However, that isn't what the Proposal would do.

Rather, the Proposal would lead to centralized reporting for only "market centers that are operated by FINRA members."⁶ And that is quite a few market centers. According to FINRA's preliminary analysis, there are 71 FINRA member firms that currently operate 83 market centers, most of which make Rule 605 filings.⁷ The vast majority of market centers already provide URL links of their current Rule 605 reports to FINRA (some don't because they don't have to file Rule 605 reports).⁸ We, like FINRA, are not aware of any market center using a national securities exchange as its reporting participant. As a result, the new costs of centralizing the data at FINRA would be near zero because the reporting firms are generally already providing links to FINRA.

Centralizing Rule 605 reports for brokers should be a no-brainer. But the Proposal shouldn't stop there. The Proposal should also cover Rule 605 reports for the national securities exchanges.

A key element of making Rule 605 reports useful is having a central repository that covers all reporting entities. It does little good for investors to have to check dozens of websites to be able to aggregate all of the data needed to readily compare different venues. There should be one centralized repository for all the Rule 605 reports – not just one for the non-exchange filers. Put simply, many of the benefits of centralizing the reports for broker dealers will be lost if the database doesn't cover all filers. We suspect that the usage of the reports in such a scenario would remain largely similar to what it is today, and the benefits of the work will be lost.

⁵ Proposal, at 3.

⁶ Proposal, at 3.

⁷ Proposal, at 3.

⁸ Proposal, at 3.



Importantly, all Rule 605 reporting entities are broker-dealers, have one as an affiliate, or otherwise already provide data to FINRA for different purposes.

We also note that FINRA has proposed potentially adding tags or groupings for different market centers. If FINRA adds an additional column to the reports or otherwise adds another mechanism to sort or filter reports of different market center types, such as single-dealer platforms, it should not – in any way – restrict the ability of users to have one site for reports from all market centers.

Conclusion

Rule 605 reports are only valuable to the extent that they may be readily used. The current decentralized reporting system is too cumbersome and costly, dramatically reducing its usage. FINRA should create and maintain a centralized, public database of all Rule 605 reports and we urge you to implement one that covers all Rule 605 reporting entities without delay. If you have any questions, please contact me at (202) 909-6138 or ty@healthymarkets.org. Thank you for your consideration.

Sincerely,

Tyler Gellasch
President & CEO
Healthy Markets Association